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PTO/SB/30 (01-03)

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Request For Continued Examination (RCE) Transmittal

Address to:
Commissioner for Patents
Box RCE
Washington, DC 20231

Application Number	09/248,524
Filing Date	February 9, 1999
First Named Inventor	Shah
Art Unit	1617
Examiner Name	Berman, Alysia
Attorney Docket Number	97.37US-RCE

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This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114

- a. ☒ Previously submitted
- i. ☒ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on February 18, 2003
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
- iii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
The Director is hereby authorized to charge the following fees, or credit any overpayments, to
- a. ☒ Deposit Account No. 05-1320 05/19/2003 NMOHAMMI 00000053 051320 09248524
- i. ☒ RCE fee required under 37 CFR 1.17(e) 01 FC:2801 375.00 CH
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☒ Other any other fees which may be required
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Dorene M. Price	Registration No. (Attorney/Agent)	43,018
Signature	<i>Dorene Price</i>	Date	May 15, 2003

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Dorene Price	Signature	<i>Dorene Price</i>	Date	May 15, 2003
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This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Box RCE, Washington, DC 20231; Mail Stop RCE, PO Box 1450, Alexandria, VA 22313

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

- 1450



Attorney Docket No.: 97.37US-RCE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Shah

Serial No.: 09/248,524

Group Art Unit: 1617

Filed: February 9, 1999

Examiner: Berman, Alysia

For: Long-Wearing Cosmetic Compositions

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PRELIMINARY AMENDMENT

Assistant Commissioner of Patents and Trademarks

Washington, D.C. 20231

Dear Sir:

The following Preliminary Amendment is submitted as a further response to the Final Office Action dated September 18, 2002 and the Advisory Action dated March 10, 2003. Applicants previously filed, on February 18, 2003, a Response to the Final Office Action and filed a Notice of Appeal on March 17, 2003. Applicants respond to the comments in the Advisory Action, and also file concurrently herewith a request for continued examination. Accordingly, it is requested that the following remarks be considered.

REMARKS

In the present Advisory Action, the present claims are rejected by the Examiner as being unpatentable for reasons previously provided in the Office Actions of September 18, 2002 and April 9, 2002. Presently, the claims are objected to because of the use of the terms "flow-through nib-type pen", "long-wearing", and "derived." And, the claims are rejected for being obvious. These issues are discussed below. Applicants submit herewith a Supplemental Information Disclosure Statement for the references submitted and mentioned below.

I. Section 112 Issues

The specification, according to the Examiner, does not provide a written description in support of a flow-through cosmetic applicator used in Claims 15 to 18. Applicants posit however, that support is found in the specification at page 5, lines 12 to 16, and lines 23 to 25, wherein it describes a flow-through nib-type pen for applying the composition. Specifically, the flow-through nib-type pen includes, *inter alia*, a wick-type nib pen. Therefore, a flow-through cosmetic applicator is described with